

WONG THEW HOR

JULY 19, 1951.—Committed to the Committee of the Whole House and ordered to be printed

Mr. WALTER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 885]

The Committee on the Judiciary, to whom was referred the bill (S. 885) for the relief of Wong Thew Hor, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to enable the minor alien child of a citizen of the United States to enter the United States as a nonquota immigrant which is the status normally enjoyed by alien minor children of citizens of the United States.

GENERAL INFORMATION

The beneficiary of the bill is the 9-year-old daughter of Wong Chung Gong, a citizen of the United States. Apparently the beneficiary of the bill did not derive United States citizenship through her father inasmuch as the father did not have the necessary residence in the United States as required by law. The mother of the beneficiary of the bill has been admitted to the United States as a nonquota immigrant as the wife of a citizen of the United States. Without the benefit of this legislation the beneficiary of the bill will be unable to join her parents in this country.

A letter dated May 11, 1951, to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General, with reference to the case, reads as follows:

HON. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
 United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 885) for the relief of Wong Thew Hor.

The bill would provide that the provisions of sections 4 (a) and 9 of the Immigration Act of 1924, as amended, pertaining to unmarried children under 21 years of age of a citizen of the United States, shall be held to be applicable to Wong Thew Hor, minor child of Wong Chung Gong, a citizen of the United States.

The files of the Immigration and Naturalization Service of this Department disclose that Wong Thew Hor, the daughter of Wong Chung Gong of Fall River, Mass., was born in Hong Kong, China, on June 16, 1941, or July 10, 1941. She is presently residing with friends in Hong Kong. Wong Chung Gong, the alien's father, stated that he was born in China in January 1912. He first entered the United States at the port of San Pedro, Calif., in 1929, when he was admitted as the son of a native United States citizen. He made two subsequent trips to China, one in November 1934, reentering the United States on December 25, 1936, and another in May 1940, reentering this country on March 13, 1941. According to Mr. Wong he was married in China to Ng Tau Moy on January 5, 1935. In addition to his daughter, two sons were born of this marriage, one in December 1935 and the other in February 1937. Mr. Wong advised that one son died in China in October or November 1949, and the other in December 1949 or January 1950. Mrs. Wong was admitted to the United States for permanent residence at the port of San Francisco on January 21, 1948, under section 4 (a) of the Immigration Act of 1924. The files further reflect that the alien's alleged father owns an interest in the China Royal restaurant in Fall River. He has claimed that the separation of his wife from their daughter has caused him undue hardship because of the grief she suffers as a result of the separation from her child.

There appears to be some doubt as to whether the alien child is a citizen of the United States in view of the extended visit of her father to China from November 1934 until December 1936, which may be construed as breaking the continuity of his residence in the United States so that he cannot be said to have had 10 years of residence in the United States prior to the child's birth, as required by section 201 (g) of the Nationality Act of 1940. The child has been refused a passport by the Department of State, which is of the opinion that she is not a citizen of the United States. The alien may, however, apply to the courts for a judicial determination of the question as to whether her father had the required residence under section 201 (g) supra.

As an alien, the child is chargeable to the Chinese racial quota, which is over-subscribed. Under existing law Chinese children of United States citizens are not accorded nonquota or preference status. Therefore, since she is deemed an alien, she may not, in the absence of special or general legislation, join her parents in this country at the present time.

Whether, under the circumstances in this case, the general provisions of the immigration laws should be waived presents a question of legislative policy concerning which this Department prefers not to make any recommendation.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

Senator Henry Cabot Lodge, Jr., the author of the bill, has submitted the following information in connection with the case:

COMMONWEALTH OF MASSACHUSETTS.

County of Bristol, ss:

I, Wong Chung Gong, residing at 325 Pine Street, Fall River, Mass., on oath depose and say that I am the father of Wong Thew Hor who was born in Hong Kong in June 1941.

I was born January 23, 1912 at Shan-Lou Fong, Toy Sun, Kwong-Tung, China. I derived citizenship through my own father who was born in San Francisco in 1874, and I now hold citizenship certificate No. AA-7896.

I entered the United States at San Pedro, Calif., on December 31, 1929, and have lived in this country since that time except for two visits to China, the first visit from November 25, 1934, to December 25, 1936, and the second visit from May 24, 1940, to March 13, 1941.

My wife, Ng Tan Moy, is now with me at my home in Fall River, having come to the United States from her native China in 1948.

I am in the restaurant business in Fall River and I am financially able to support my child, Wong Thew Hor, since my present worth in real estate, personal property, and cash is in excess of \$30,000.

WONG CHUNG GONG.

Subscribed and sworn to before me this fifth day of February in the year 1951.

[SEAL]

TERRANCE J. LOMAX, Jr.,
Notary Public.

My commission expires November 29, 1951.

NARRATIVE STATEMENT

The beneficiary of this bill is a Chinese girl, Wong Thew Hor, born in June 1941 at Hong Kong. Her father is an American citizen of Chinese extraction. Her mother is Chinese.

The father of the beneficiary came to United States in 1929 at the age of 19 years, deriving his citizenship as the son of a native Californian of Chinese extraction. In 1931 he established a small restaurant business in Fall River, Mass. In November 1934, he visited China and continued his visit until December 1936, when he returned to Fall River Mass., and continued in the same restaurant business. He visited China again in May 1940, and returned to Fall River, Mass., in March 1941.

In 1935 a son, Wong Wing Yock, was born in Canton.

In 1936 a second son, Wong Wing Soon, was born in Canton.

Both of these sons died in 1949 in Go Pin Village, Hoy Sun, Canton, China, within a few months of each other.

The beneficiary was born in Hong Kong in June 1941.

The mother of the beneficiary came to Fall River, Mass., in 1948 but the beneficiary was denied admission to the United States under the provisions of the Nationality Act of 1940 which became effective in January 1941.

Under the law prior to January 1941 the beneficiary would have been admitted to United States citizenship as the child of a citizen of the United States.

Under the 1940 act such citizenship rights were granted only if the citizen parent had resided in United States for 10 years prior to the birth of his child. During the years of the father's visits to China, the provisions of the 1940 act were not in contemplation. In those years such visits did not affect the status of citizenship either directly or indirectly. However, the interpretation of the 1940 law excluded that period of the 25-month visit to China from the over-all time of the father's residence in this country. The later visit of 11 months was also excluded so that, with such exclusions, the father's residence prior to the birth of the beneficiary totaled about 8½ years or 1½ years short of the legal requirement. Therefore, under the 1940 act it was held that the child had neither claim to citizenship nor preferential consideration for admission to this country.

The 1940 act became effective in January 1941, only 5 months prior to the birth of the beneficiary.

In other words, the beneficiary was a citizen at the time of conception but the 1940 act made her an alien, with no rights or privileges, at the time of birth.

The parents are well established and well thought of residents of Fall River, the father owning a large restaurant in the center of the city, and a partnership interest in another large restaurant in the same city. He is the owner of real estate and his net worth is more than \$30,000. He can and will take excellent care of the beneficiary.

The parents, the mother in particular, are distraught with fear for their only remaining child in Hong Kong.

There is well-founded medical opinion that the mother will become mentally unbalanced soon unless the child is restored to her.

In brief, the beneficiary and the family find themselves to be victims of an apparent injustice brought about by the legal interpretation and effective date of the Nationality Act of 1940.

In view of the unsettled international situation affecting the Hong Kong area, an urgent plea for speedy relief is included in this general plea for assistance to the beneficiary, Wong Thew Hor.

Hon. Joseph W. Martin, Jr., the author of a companion bill (H. R. 2545), submitted the following statement in support of this legislation:

STATEMENT OF HON. JOSEPH W. MARTIN, JR. ON H. R. 2545 AND S. 885

Gentlemen, on February 8, 1951, I introduced H. R. 2545, for the relief of Wong Thew Hor. A companion bill, S. 885, passed the Senate on June 21, 1951; and I wish to urge favorable consideration of this legislation.

The bill would facilitate the admission into the United States of Wong Thew Hor, the 10-year-old daughter of Wong Chung Gong, a citizen of the United States and a resident of Fall River, Mass., where he owns an interest in the China Royal Restaurant.

Mr. Wong first entered this country in 1929, when he was admitted as the son of a native United States citizen. He returned to China in 1934, where he married Ng Tau Moy in January 1935; and he reentered the United States in December 1936. He again visited China in May 1940 and returned to this country in March 1941. The beneficiary of this bill was born in Hong Kong, China in June or July 1941.

Mrs. Wong was admitted into the United States for permanent residence in January 1948, as the wife of an American citizen. However, because Mr. Wong did not have 10 years' continuous residence in the United States prior to the birth of the child, the beneficiary did not acquire American citizenship and is, therefore, chargeable to the Chinese racial quota, which is oversubscribed; and an immigration visa is not obtainable.

The beneficiary is presently residing with friends in Hong Kong. This separation is causing undue hardship to the parents.

I hope this legislation will receive favorable consideration so that this family can be reunited in the United States.

The committee, after consideration of all the facts in this case, is of the opinion that the bill (S. 885) should be enacted.